

Governour's Grant.

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# Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May*, 1757 : And continued by Prorogations to the sixteenth Day of *August* following, and then met.

## C H A P. III.

An Act for granting the Sum of *Thirteen Hundred Pounds* for the Support of his Majesty's Governour.

**W**HICH it enacted by the Governour, Council and House of Representatives, That the Sum of *Thirteen Hundred Pounds* be and hereby is granted unto his most excellent Majesty to be paid out of the publick Treasury to His Excellency *THOMAS POWNALL*, Esquire, Captain General and Governour in Chief in and over His Majesty's Province of the *Massachusetts-Bay*, to enable him to carry on the Affairs of Government.

## C H A P. IV.

An Act in further Addition to the Act for Limitation of Actions, and for avoiding Suits in Law, where the Matter is of long Standing.

**W**HEREAS by a Law of this Province, Intituled, " An Act in further Addition to the Act for the Limitation of Actions, and for avoiding Suits in Law, where the Matter is of long Standing," made and pass'd in the twenty-ninth Year of his present Majesty's Reign, the Time limited for commencing all Actions of Account and upon the Case, excepting such as are excepted in another Act, Intituled, " An Act in Addition to and for the Explanation of an Act Intituled An Act for Limitation of Actions,

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" and



“ and avoiding Suits at Law, where the Matter is of long Standing ” ; made and pass'd in the twenty-second Year of his present Majesty's Reign ; will expire the last Day of March next. And whereas the Continuance of the War, and great Numbers of Men that are and may hereafter be in his Majesty's Service, will make it necessary that some further Time may be allowed for the bringing some Kind of Actions :

Time for bringing Actions on the Case &c. to be extended.

Be it therefore enacted by the Governour, Council and House of Representatives, That the Time for commencing of Actions of the Case upon Notes of Hand, or upon Book Accounts, limited by said Act of the twenty-second, or by said Act of the twenty-ninth Year of his present Majesty's Reign, shall be and hereby is extended to the last Day of March, which will be in the Year of our Lord One Thousand seven Hundred and sixty : And no Suit hereafter to be brought in such Cases, shall be barred if commenced before the Expiration of said Term.

And that this Law may be more generally known :

This Act &c. to be read in Town and District anniversary Meetings, and in Courts of Common Pleas.

Be it further enacted, That the Act Intituled *An Act for the Limitation of Actions, and for avoiding Suits in Law where the Matter is of long Standing*, made in the thirteenth Year of the present Reign ; the aforesaid Act Intituled *An Act in Addition to and for the Explanation of an Act Intituled An Act for the Limitation of Actions, and avoiding Suits at Law where the Matter is of long Standing*, made and pass'd in the twenty-second Year of the present Reign ; And this Act ; shall be read by the Clerk of each Town and District, at their Anniversary Meetings in March and May annually ; and the Justices of the several Courts of Common Pleas within the respective Counties, shall cause the same to be publicly read at the Opening of their Courts from Time to Time, from the Publication of this Act, and until the last Day of March, One Thousand seven Hundred and Sixty.

#### C H A P. V.

An Act in Addition to an Act, Intituled *An Act in Addition to the Act for providing of Pounds &c.*

Preamble.

**W**HEREAS it has been found inconvenient for the Party damnified by any Creatures which have been impounded and apprizd, to be obliged to keep them to his own Use at the apprizd Value :

Creatures impounded and apprizd may be sold at public Outcry.

Be it therefore enacted by the Governour, Council and House of Representatives, That when any Creatures have been impounded and apprizd, agreeable to the Directions of the afore-mentioned Act ; if the Person impounding don't see fit to take the said Creatures at the apprizd Value, then they shall be sold at publick Outcry to the highest Bidder by the Person who caused the same to be impounded, Notice of the Time and Place of such Sale having been posted up in some publick Place in the Town in which they are impounded, four Days at least before the Sale ; and the Overplus of the Money arising by such Sale (if any there be after necessary Charges are paid) shall be returned to the Owner.

Limitation.

This Act to continue and be in Force for the Space of three Years from the first Day of September next, and no longer.



## Wells &amp;c. Harbours.

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## C H A P. VI.

An Act to prevent Neat Cattle, Horses and Sheep running at large and feeding on the Beaches between *Wells* and *Ogunquit* Harbours in the Town of *Wells*, and to prevent the Mowing of the same.

**W**HEREAS there is a large Quantity of Marish within the Township of Wells, in the County of York, on which most of the Inhabitants of said Town depend for their Hay, and the said Marish lies adjoining to two long Sandy Beaches between Wells and Ogunquit Harbours, which is the only Barrier to prevent said Marish from being destroyed, and by Reason of Cattle and Horses trampling and feeding there, and by some Persons Mowing the Grass on said Beaches, which was wont to preserve the Beaches and prevent the Seas breaking over the same, and covering said Marish with Sand, by which some Part of said Marish is already destroyed, and the whole is in Danger of being buried with the Sand, if not timely prevented: Preamble.

Be it therefore enacted by the Governour, Council and House of Representatives, That from and after the first Day of September next, no Person shall presume to turn or drive any Neat Cattle, Horses or Sheep upon the said Beaches to feed, or leave them at large there, on the Penalty of *four Shillings* a Head for all Neat Cattle and Horse-kind, and *six Pence* for every Sheep so turned upon any of said Beaches to feed, or that shall be found at large there, which Penalty may be recovered by any Person of the said Town of *Wells*, one Moiety thereof to be to the Informer that shall sue for the same, and the other Moiety to be to and for the Use of the Poor of said Town. Persons forbidden to drive Cattle &c on the Beaches between Wells and Ogunquit Harbours, on Penalty.

And be it further enacted, That it shall and may be lawful for any Person or Persons of the said Town of *Wells*, finding any Cattle, Horse-kind or Sheep, feeding or going at large upon the Beaches aforesaid, or any of them, to impound the same, and the Person or Persons impounding them shall give publick Notice thereof in said Town of *Wells*, and shall relieve said Creatures whilst impounded, with suitable Meat and Water, and the Owner thereof appearing shall pay to the Impounder *two Shillings* for each Head of Neat Cattle and Horse-kind, and *four Pence* for each Sheep so impounded, and Cost of impounding them; and if the Owner do not appear within the Space of six Days and pay the Damages and Cost occasioned by Impounding the same, then and in every such Case the Person or Persons Impounding such Cattle, Horse-kind or Sheep, shall cause them to be sold at publick Vendue for paying such Damages and Costs, and the Charge arising by such Sale, publick Notice of the Time and Place of such Sale being given forty eight Hours before Hand, and the Overplus, if any be, to be returned to the Owner of such Cattle, Horse-kind or Sheep on his Demand, at any Time within twelve Months next after the Sale; and if no Owner shall appear within the said twelve Months, then one Moiety of the Overplus shall be to the Party impounding, and the other Moiety thereof to the Use of the Poor of said Town. Cattle to be impounded in Case.

And be it further enacted, That if any Person shall presume to Mow any Grass on said Beaches, or carry away any from off said Beaches, shall forfeit and pay the Sum of *Five Pounds* for every Tun, and so in Proportion for a greater or less Quantity; which Penalty may be recovered by any Person of the Town of *Wells*, one Moiety thereof to be to the Informer that shall sue for the same, and the other Moiety to be to and for the Use of the Poor of said Town. Cattle to be sold in Case.

Penalty for Mowing &c. said Beaches.

And



Penalty for leaving open Bars &c. leading to said Beaches.

And be it further enacted, That no Person shall presume to leave open any Bars or Gates athwart any Road that leads to the said Beaches, on Penalty of *Six Shillings*, which Penalty may be recovered by any Person of the Town of *Wells*, the whole thereof to be to him or them that shall sue for the same.

In Case any Dispute arise, how the same may be determined by the Oath of the Plaintiff &c. unless.

And be it further enacted, That in Case any Dispute arise upon any Action, Bill, Plaint or Information, brought as aforesaid, where the Plaintiff, Complainant or Informer shall charge the Defendant in Trespass for cutting or carrying off any Grass from said Beaches, or leaving open any Bars or Gates as aforesaid, then and in such Case if the Plaintiff, Complainant, or Informer, or his Agent or Attorney, shall make Oath *bonâ fide*, that there hath been cut or carried away to the best of his Judgment, any certain Quantity of Grass, or that any Bars or Gates have been left open as mentioned in the Writ, and that he suspects the Defendant to have committed the said Trespasses, and although the Plaintiff, Complainant or Informer, or his Agent or Attorney, may not be able to produce any other Evidence thereof, than such Circumstances as render it highly probable in the Judgment of the Court or Justice before whom the Trial is, then and in every such Case, unless the Defendant shall acquit himself upon Oath (to be administered to him by the Court or Justice that shall try the Cause) the Plaintiff shall recover against the Defendant Damages and Costs; but if the Defendant shall acquit himself upon Oath as aforesaid, the Court or Justice may and shall enter up Judgment for the Defendant to recover against the Plaintiff double his Cost occasioned by such Prosecution.

Officers to be chosen to see this Act carried into Execution.

And be it further enacted, That the said Town of *Wells* at their Meeting in *March* annually for the Choice of Town Officers be and hereby are authorized and impowered to chuse two or more Persons, whose Duty it shall be to see that this Act be observed and prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay *sixteen Shillings* for the Use of the Poor of the said Town of *Wells*, and the said Town of *Wells* at a Town Meeting warned for that Purpose, may at any Time before *March* next chuse such Officers who shall continue until their annual Meeting in *March* next.

Penalty for not serving.

Limitation.

This Act to be in Force until the first Day of *September* One Thousand seven Hundred and sixty, and to the End of the then next Sitting of the General Court, and no longer.



## Bankrupts and their Creditors.

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## C H A P. X.

## An Act providing Remedy for Bankrupts and their Creditors.

**W**HEREAS divers Persons in this Province having of late become Insolvent, have secreted themselves and their Estates, to the great Hurt of themselves, their Families and Creditors : Preamble.

For Remedy whereof, and to prevent many Inconveniencies that happen to Creditors and Debtors in Cases of Insolvency :

Be it enacted by the Governour, Council, and House of Representatives, That all Persons using, or that shall use the Trade of Merchandize by Way of Bargaining, Exchange, Bartering or otherwise in Gross or by Retail, or seeking his, her or their Living by buying and selling, either on his own Account or as a Factor, who shall in Writing make a voluntary Declaration upon Oath to the Secretary of this Province, that he is unable to pay his Debts, of which the Secretary shall make a Record and give Notice thereof in all the public *Boston* News-Papers three Weeks successively, or have departed or shall depart this Province, have begun or shall begin to keep his or her House, or otherwise absent him or her self, or suffer him or her self willingly to be arrested for any Debt or other Thing not grown due for Money delivered, Wares sold, or other just or lawful Cause or good Consideration, or hath or shall willingly or fraudulently procure him or her self to be arrested, or his other Goods or Money to be attached, or depart from his or her Dwelling-House, or make or cause to be made any fraudulent Grant or Conveyance of his, her or their Lands, Tenements, Goods or Chattels, to the Intent or whereby his, her or their Creditors shall or may be defeated or delayed in the Recovery of their just and true Debts, or being arrested for Debt, shall after his or her Arrest lie in Prison six Months upon that Arrest, or upon any other Arrest or Detention in Prison for Debt, or being arrested for a just Debt or Debts, shall at any Time after such Arrest escape out of Prison, shall be accounted and adjudged a Bankrupt to all Intents and Purposes.

Persons liable to become Bankrupt, and in what Cases they shall be deem'd and adjudged so.

Secretary to give Notice in the *Boston* News Papers.

And be it further enacted, That the Commander in Chief with the Advice and Consent of his Majesty's Council, upon Complaint made to him in Writing against such Person or Persons being Bankrupt, shall have full Power and Authority by Commission under the great Seal of this Province, to name, assign and appoint such honest and discreet Persons as to him with such Advice shall seem good, who, or the most Part of them, by Virtue of this Act and such Commission, shall have full Power and Authority, as in their Discretion shall seem meet, to take such Order and Direction with the Body of such Person wheresoever he or she may be had, either in his or her House or Houses or elsewhere, as well by Imprisonment of his or her Body, as also with all his or her Lands, Tenements and Hereditaments, which he or she shall have in his or her own Right before he or she became Bankrupt; and also with all such Lands, Tenements and Hereditaments, as such Person shall have purchased and obtained for Money or other Recompence jointly with his Wife, Children or Child, to the only Use of such Bankrupt or Bankrupts, or of or for such Use, Interest, Right or Title, as such Bankrupt or Bankrupts then shall have in the same, which he or she may lawfully depart withal, or with any Person or Persons of Trust to any secret Use of such Bankrupt or Bankrupts; and also with his or her Money, Goods, Chattels and Debts, Books of Account and Papers, wheresoever they may be found or known, and cause the said Lands, Tenements, Hereditaments, Money, Chattels, Goods and Debts, Books and Papers, to be searched, viewed, rented and appraised, and by Deed

Commander in Chief with the Advice and Consent of the Council under the Seal of the Province to appoint and grant Commissioners Power, &c.



## Bankrupts and their Creditors.

indented and duly Acknowledged and Registered, to make Sale of such Lands, Tenements and Hereditaments, and of all Deeds, Writings and Evidences touching only the same, belonging to such Debtor or Debtors; and also of all Annuities, Goods and Chattels, or otherwise to order the same for the true Satisfaction and Payment of the said Creditors, *that is to say*, a Portion Rate and Rate like to the Sum of his or their Debt.

*And for the better Distribution of the Lands, Tenements, Hereditaments, Goods, Chattels and other Estate of such Bankrupt, to and amongst his or her Creditors:*

Commissioners to examine on Oath or otherwise to discover Debts due to Creditors.

Creditors having Security not to be relieved unless.

Direction, Order &c. of the Commissioners to be good against the Wife or Children &c. of any Bankrupt.

Commissioners to give public Notice of Persons declared Bankrupt, and when and where to surrender.

Bankrupts deem'd out of his Majesty's Protection in Case.

Persons not to secret Bankrupts on Penalty.

Commissioners may issue Warrants to bring Bankrupts before them.

Be it enacted, That the said Commissioners or the greater Part of them, shall and may examine upon Oath, or by any other Ways or Means as to them shall seem meet, any Person or Persons for the finding out and Discovery of the Truth and Certainty of the several Debts due and owing to all such Creditor and Creditors as shall seek Relief by such Course of Commission, to be sued forth as aforesaid; and that all and every Creditor and Creditors having Security for his and their several Debts by Judgment, Statute or Recognizance, or that have made or shall make Attachment of any Estate of such Bankrupt on Supposal of his Absconding or Absence, whereof there shall be no Execution served and executed upon any of the Lands, Tenements, Hereditaments, Goods and other Estate of such Bankrupts, before such Time as he or she shall or do become Bankrupt, shall not be relieved upon any such Judgment, Statute, Recognizance, or Attachment, for any more than a Rateable Part of their just and due Debts, with the other Creditors of the said Bankrupt.

And be it further enacted, That every Direction, Order, Bargain, Sale, and other Things done by the said Persons so authorized as aforesaid, in Form aforesaid, shall be good and effectual in the Law to all Intents, Constructions and Purposes against the said Bankrupt or Bankrupts, his or their Wife or Wives, Heir and Heirs, Child and Children, and such Person or Persons as by such joint Purchase with the said Bankrupt or Bankrupts as is aforesaid, have or shall have any Estate or Interest in the Premises, and against all other Person and Persons claiming by, from or under such Debtor or Debtors by any Act or Acts had, made or done after any such Person shall become Bankrupt, as is aforesaid.

And be it further enacted, That the Commissioners, or the greater Part of them, after having declared such Person a Bankrupt, shall cause Notice thereof to be given in the publick *Boston* News Papers for three Weeks successively, and shall therein appoint Time and Place for the said Bankrupt to surrender him or her self to them, and to conform to this Act, which Time they or the greater Part of them may enlarge as is hereafter mentioned; and if the said Bankrupt shall not at one or other of those Times surrender him or her self to the said Commissioners, then the Body of all and every such Offender or Offenders shall be adjudged, taken and deemed to all Intents Purposes out of his Majesty's Protection, and every Person and Persons that shall willingly and wittingly help to hide, or shall wittingly and willingly receive, detain or keep secretly any Person or Persons so demanded, as is aforesaid, shall suffer such Imprisonment, or pay such Fine as to the Court of Assize, upon Conviction thereof shall seem meet; and the said Commissioners, or the greater Part of them, shall or may at any Time after the issuing of such Commission as they in their Discretion shall think fit, award a Warrant to the Sheriff of the County, his Under-Sheriff or Deputy, to apprehend the Body and Bodies of the said Bankrupt and Bankrupts, and to bring him, her or them before the said Commissioners, wheresoever the said Party or Parties may be found, to be examined by the Commissioners, or the greater Part of them: And it shall be lawful for the said Commissioners, or the greater Part of them, or any other Person or Persons, Officer or Officers, by them, or the greater

Part



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Part of them, to be deputed and appointed by their Warrant or Warrants under their Hands and Seals, to break open the House or Houses, Chambers, Shops, Warehouses, Doors, Trunks or Chests of the said Bankrupt, where any of his or her Goods or Estate shall be, or be reputed to be, and to seize upon, and order the Body, Goods, Chattels, ready Money and other Estate of such Bankrupt, whether it be by Imprisonment of his or her Body, or otherwise as to the said Commissioners, or the greater Part of them, shall be thought meet: And it shall be lawful for the said Commissioners, or the greater Part of them, to examine every Person against whom any Commission shall be awarded, by Oath, or (if of the People called *Quakers*, by) solemn Affirmation, upon such Interrogatories touching such Person's Lands, Tenements, Hereditaments, Goods, Chattels, Debts, Bills, Bonds, Books of Accounts, and all other Matters relating to his or her Trade and Effects, and such other Things, as may tend to disclose his or her Estate, or the secret Grants, Conveyances and Eloyning of his, her or their Lands, Tenements, Hereditaments, Goods, Money and Debts as they shall think meet; and likewise so to examine the Wife of such Bankrupt, for the finding out and Discovery of the Estate Goods and Chattels of such Bankrupt, concealed, kept or disposed of by her, in her own Person, or by her own Act and Means, or by any other Person or Persons, and likewise so to examine any Person supposed or suspected to be indebted to the said Bankrupt, or to have any of the Goods, Chattels, Debts, Estate or Securities of such Bankrupt in his or her Custody, Use, Occupying, Direction or Command, or any other Person duly summoned or present at the Meeting of the Commissioners, touching the Premises, and any Acts of Bankruptcy committed by him or her; and also to reduce into Writing the Answers of such Bankrupt, his Wife or other Person, which Examination the Party examined is required to subscribe; and in Case such Bankrupt, his Wife or other Person shall refuse to Answer, or shall not fully answer to the Satisfaction of the Commissioners, all lawful Questions put by the Commissioners, or shall refuse to subscribe his Examination (not having a reasonable Objection to the Wording thereof, or otherwise to be allowed by the Commissioners) it shall be lawful for the Commissioners by Warrant to commit him or her to such Prison as the Commissioners shall think fit, there to remain without Bail, until such Person shall submit him or her self to the Commissioners, and full Answer make to the Satisfaction of the Commissioners to all such Questions as shall be put to him or her, and subscribe such Examination as aforesaid: And in Case any Person shall be committed by the Commissioners for refusing to Answer, or not fully answering any Question, the Commissioners shall in their Warrant of Commitment specify such Question. And in Case any Person committed by the Commissioners Warrant, shall bring a Habeas Corpus in order to be discharged, and there shall appear any Insufficiency in the Form of the Warrant, it shall be lawful for the Court or Judge, before whom such Party shall be brought by Habeas Corpus, by Rule or Warrant, to commit such Person to the same Prison, there to remain until he or she shall conform as aforesaid, unless it shall be made appear that such Person hath fully answered all lawful Questions put by the Commissioners, or (in Case such Person was committed for not signing his Examination) unless it shall appear that the Party had good Reason for refusing to sign the same: And in Case any Goaler, to whom such Person shall be committed, shall wilfully suffer such Person to escape, or go without the Walls or Doors of the Prison, such Goaler shall for such Offence, being convicted thereof by Indictment or Information, forfeit *Five Hundred Pounds*, for the Use of the Creditors: And the Goaler shall upon Request of any Creditor, having proved his Debt, and produced a Certificate thereof under the Hands of the Commissioners (which the Commissioners shall give gratis) produce such Person so committed, and in

Commissioners may issue Warrants for breaking open the House &c. of any Bankrupt.

Bankrupts to be examin'd on Oath, or if *Quakers* by Affirmation.

Wife of any Bankrupt may be examined.

Or any Person suspected to be indebted to any Bankrupt &c.

Bankrupts Answers to be reduc'd to Writing.

Bankrupts or their Wives may be imprisoned for refusing to Answer.

Warrant for Commitment to specify the Question.

Persons committed applying by Writ of Habeas Corpus, to be discharged, may be recommit- ted in Case.

Penalty for the Goaler's wilfully suffering an Escape, &c.

Case



## Bankrupts and their Creditors.

Case such Goaler shall refuse to shew such Person so committed, and being in his actual Custody at the Time of such Request, to such Creditor requesting to see such Person, such Goaler shall forfeit an *Hundred Pounds*, for the Use of the Creditors, to be recovered by Action of Debt in the Name of the Creditor requesting such Sight.

Penalty for Perjury committed by the Bankrupt.

And be it further enacted, That if upon the Examination of such Bankrupt, it shall appear that he, she or they have committed any wilful or corrupt Perjury, tending to the Hurt or Damage of the Creditors of the said Bankrupt to the Value of *Ten Pounds*, or above, the Party so offending, shall or may thereof be indicted in his Majesty's Court of Assize, and being lawfully convicted thereof, shall stand in the Pillory one Hour, and have one of his Ears cut off. And it shall and may be lawful for such Commissioners or the greater Part of them, to issue Process against the Wife of such Bankrupt, to bring her before them for Examination, and if she or any other Person, duly summoned, shall fail of appearing before the said Commissioners at the Time and Place by them appointed, they shall incur such Danger and Penalty as is above made and provided against the Bankrupt himself, and the lawful Costs of all Witnesses shall be rateably born by the Creditors of such Bankrupt, according to the Proportion of each of their several Debts.

Commissioners may bring the Wife of any Bankrupt for Examination &c.

Frauds to be indicted at the Court of Assize &c.

And be it further enacted, That if any Bankrupt shall upon Examination before the said Commissioners executing the said Commission, be found fraudulently or deceitfully to have conveyed away his or her Goods, Chattels, Lands, Tenements, Rents, Annuities or other Estate, or any Part thereof to the Value of *Twenty Pounds*, or above, to the End and Purpose to hinder the Execution of this Act, or thereby to defraud, or delay or hinder his or her Creditors of the same, and shall not upon Examination discover to the said Commissioners, or the greater Part of them, and if it be in his or her Power, deliver unto the said Commissioners all that Estate, Goods and Chattels so fraudulently conveyed away as aforesaid, or by him or her, his or her Means kept or detained from the said Commissioners, or shall not as far as lies in his or her Power convey to the said Commissioners all his or her Estate being out of this Province, to be disposed of by the said Commissioners as his or her other Estate for the Benefit of the Creditors, shall or may be indicted for such Fraud or Abuse at the Assizes or General Sessions to be holden before the Judges of Assize, or Justices of the Peace of the County where he or she shall become Bankrupt, and the Bankrupt upon Conviction thereof, shall stand in the Pillory one Hour, and have one of his Ears cut off.

Penalty:

Where Lands &c. are fraudulently conveyed without a valuable Consideration the Commissioners may dispose of the same for the Benefit of the Creditors.

And be it further enacted, That if any Person which is or shall be a Bankrupt by the Intent of this Act, shall convey, or procure, or cause to be conveyed to any Person or Persons any Lands, Tenements, Hereditaments, Annuities, Leases, Goods, Chattels, or transfer his Debts into other Mens Names, except the same shall be purchased, conveyed or transferred, for some good or valuable Consideration, it shall be in the Power and Authority of the Commissioners in this Behalf to be appointed, or the greater Part of them, to bargain, sell, grant, convey, demise, or otherwise to dispose thereof, in as ample Manner as if the said Bankrupt had been actually seized or possessed thereof, or the Debts were in his own Name, of the like Estate or Interest to his or their own Use at such Time as he or she became Bankrupt; and that every such Grant, Bargain, Sale, Conveyance and Disposition of the said Commissioners, or the greater Part of them, shall be good and available to all Intents, Constructions and Purposes in the Law against the Offender and Offenders, his Heirs, Executors, Administrators and Assigns, and such Persons as shall be subject to this Act, and against all other Person or Persons claiming by from or under such Offender or Offenders, or such said other Persons to whom such Conveyance shall be made by the Bankrupt, or by his Means or Procurement.



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And he it further enacted, That if any Person or Persons being known, supposed or suspected to have or detain any Part of the Lands, Tenements, Hereditaments, Goods, Chattels or Debts of the said Bankrupt, or to be indebted to or for his or her Benefit, shall not upon Examination disclose, and plainly declare and shew the whole Truth of such Things as he or they shall be examined of concerning the Premises to his Knowledge, then every such Person or Persons upon due Proof thereof to be made before the said Commissioners, or the greater Part of them, so to be appointed as is aforesaid, by Witness, Examination or otherwise, as to the said Commissioners, or the greater Part of them shall seem sufficient in that Behalf, shall lose and forfeit double the Value of all such Goods, Chattels, Wares, Merchandizes and Debts by them or any of them so concealed, and not wholly and plainly declared and shewed; which Forfeiture shall be levied by the said Commissioners, or the greater Part of them, of the Lands, Tenements, Hereditaments, Goods and Chattels of such Person not disclosing the whole Truth as is aforesaid, by such Ways and Means, and in such Manner and Form as is before limited and appointed for the principal Offender or Offenders, Debtor or Debtors; and the same Forfeiture or Forfeitures to be distributed or employed to and for the Satisfaction and Payment of the Debts of the said Creditor or Creditors in such like Manner, Rate and Form, as is above declared concerning the ordering of the Lands, Tenements, Goods and Chattels of such Debtor or Debtors, as is aforesaid.

Persons detaining Lands &c. of any Bankrupt or being indebted, that on Examination shall not disclose the whole Truth, to pay double the Value of Lands &c.

Forfeitures to be distributed for the Payment of Creditors.

And he it further enacted, That if at any Time before or after such voluntary Declaration to the Secretary, or that any such Person or Persons depart the Province, keep his or their Houses, or otherwise absent him or themselves, or suffer him or themselves to be arrested or imprisoned, or escape as is aforesaid, any Person or Persons fraudulently by Coven or Collusion, claim, demand, or recover any Debts, Duties, Goods, Chattels, Lands or Tenements, which were or shall be due, belonging or appertaining to any such Bankrupt or Bankrupts, other than such as he or they can or do prove to be due by Right and Conscience, in Form aforesaid, for Money paid, Wares delivered, or other just Consideration, or Cause reasonable to the just Value thereof before the said Commissioners so to be appointed, or the greater Part of them, as is aforesaid, and the same to proceed, *bona fide*, without Fraud or Coven, that then every such Person or Persons so craftily demanding and claiming any such Debt, Duty or other Thing as is aforesaid, shall forfeit and lose double as much as he or they shall so claim and demand, which said Forfeiture shall be recovered, levied and employed in Manner and Form as is before Rehearsed: And every Person who shall have accepted any Trust, and shall wilfully conceal any Estate of any Bankrupt, and shall not within forty two Days after such Commission shall issue, and Notice given in the public News-Papers, discover such Trust and Estate in Writing to one of the Commissioners or Assignees hereafter mentioned, and submit to be examined thereupon (if required,) shall forfeit *One Hundred Pounds*, and double the Value of the Estate concealed, to the Creditors: And if any Person or Persons other than the Bankrupt, either by Subornation, unlawful Procurement, sinister Persuasion, or Means of any other, or by his own Act, Consent or Agreement, shall wilfully and corruptly commit any Manner of wilful Perjury by his Deposition to be taken before the said Commissioners, or the greater Part of them, as aforesaid, that then the Party or Parties so offending, and all and every Person and Persons that shall unlawfully and corruptly procure any such unlawful, wilful and corrupt Perjury, shall or may therefor be indicted in his Majesty's Superiour Court, and after his or their Conviction thereof, shall incur such Forfeiture, and receive and suffer such Pains and Punishments, as are limited by the Statute made concerning Perjury, in the fifth Year of the Reign of Queen Elizabeth.

Persons fraudulently claiming or recovering Debts &c. of any Person deemed or adjudged a Bankrupt, to forfeit double as much as shall be claimed or demanded.

Persons intrusted and wilfully concealing the Estate of any Bankrupt, to be fined £. 100

Persons committing wilful Perjury to be indicted &c.

Penalty.

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And



Sums of Money forfeited to be recovered by Creditors.

And be it further enacted, That all and every Sum and Sums of Money which shall be forfeited by Force of this Act, shall be sued for and recovered by the said Creditors only, or any of them that will sue for the same, by Action of Debt, Bill, Plaint or Information, in any of his Majesty's Courts of Record; and the Sum and Sums of Money so recovered, (the Charges of Suit being deducted) shall be distributed and divided towards the Payment of the said Creditors.

Proviso relating to Forfeitures.

*Provided always, and be it enacted,* That if it shall happen that the Creditors of any such Bankrupt, as is aforesaid, be paid and satisfied their Debts and Duties of or with the proper Lands, Tenements, Goods, Chattels and Debts of the said Bankrupt, or of or with the same and some Part of the Forfeitures of the said double Values to be forfeited as is aforesaid, and that there shall remain an Overplus of the said Forfeiture of the said double Values, that the said Overplus shall by the said Commissioners so executing the said Commission, be paid to the Treasurer of this Province for the Use thereof.

Commissioners to assign or dispose of Debts &c. for the Benefit of Bankrupts.

And be it further enacted, That the Commissioners of Bankrupts, or the greater Part of them, shall have Power to grant and assign, or otherwise to order or dispose all or any of the Debts due, or to be due, to and for the Benefit of the said Bankrupt, by what Person or Persons soever, or in what Manner and Form soever, to the Use of the Creditors of the said Bankrupt. And that the same Grant, Assignment or Disposition of the said Debts, in Form hereafter mentioned by the said Commissioners, or the greater Part of them, shall so vest the Property, Right and Interest of the said Debt and Debts, in the Person or Persons of him, her or them, to whom it shall be granted, assigned or ordered by the said Commissioners, or the greater Part of them, as fully to all Intents and Purposes, as if the Bill, Bond, Bonds, Recognizances, Judgment or Contract, whereupon the said Debt or Debts, Deed or Deeds shall arise or grow, had been made, to or with, or for the said Person or Persons to whom the same shall be so granted, assigned or disposed by the said Commissioners; and that after such Grant, Assignment or Disposition made of the said Debts, that neither the Bankrupt, nor any other to whom such Debts shall be due, shall have Power to recover the same, nor to make any Release or Discharge thereof, neither shall the same be Attached as the Debt of the Bankrupt, or such said other Person or Persons to whom the same shall be due, by any other Person or Persons; but that the Party or Parties to whom the same Debt shall be assigned, shall have like Remedy to recover the same as fully and lawfully in the Name or Names of the Person or Persons to whom the same shall be so granted, assigned or ordered by the said Commissioners in all Respects and Purposes, as the Party himself might have had.

Proviso respecting Debtors.

*Provided always,* That no Debtor of the Bankrupt hereby be endangered, for any Payment truly and *bonâ fide* made to any such Bankrupt before such Time as he shall understand or know that he is become a Bankrupt.

Commissioners to make Declaration to any Bankrupt of the employing or bestowing of his or her Estate when lawfully requested.

*Provided also, and be it further enacted,* That such of the said Commissioners as shall put the said Commission in Execution, shall upon lawful Request to them made by the said Bankrupt, not only make a true Declaration to the said Bankrupt, of the employing and bestowing of his, her, or their said Lands, Tenements, Hereditaments, Goods, Wares, Chattels and Debts, which shall be paid and satisfied to their said Creditors, but also make Payment of the Overplus of the same, if any such there be, to the said Bankrupt, their Executors, Administrators and Assigns. And that the said Bankrupts, after the full Satisfaction of the said Creditors, shall have full Power and Authority to recover and receive the Residue and Remainder of the Debts to them owing; any Thing in this Act contained to the contrary in any wise notwithstanding.



## Bankrupts and their Creditors.

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And be it further enacted, That the Creditors who shall Petition for a Commission of Bankruptcy, shall be obliged at their own Costs to prosecute the same, until Assignees shall be chosen; and the Commissioners shall, at the Meeting appointed for the Choice of Assignees ascertain such Costs, and by Writing shall order the Assignees to Reimburse such petitioning Creditors out of the first Effects of the Bankrupt that shall be got in; and the Commissioners shall forthwith, after they have declared the Person a Bankrupt, and caused Notice thereof to be given in the public News-Papers, appoint Time and Place for the Creditors to meet in order to choose Assignees; at which Meeting the Commissioners shall admit the Proof of any Creditor's Debt that shall live remote from the Place of such Meeting by Affidavit or solemn Affirmation, and permit any Person duly authorized by Letter of Attorney, (Oath or Affirmation being made of the Execution thereof, either by an Affidavit sworn, or Affirmation made before a Justice of the Peace, or before the Commissioners *viva voce*; and in Case of Creditors residing in distant Parts, such Affidavits or Affirmations shall be made before a Magistrate where the Party shall be residing, and shall, together with such Creditor's Letters of Attorney, be attested by a Notary-Publick) to vote in the Choice of Assignees in the Place of such Creditor; and the Commissioners shall assign such Bankrupt's Estate unto such Persons as the major Part in Value of such Creditors, according to the Debts then proved, shall choose; and the Assignees shall be obliged to keep Books of Account, wherein they shall enter all Sums of Money, or other Effects which they shall have received out of said Bankrupt's Estate, to which Books every Creditor shall have free Resort; and no Creditor, or other Person on Behalf of any Creditor, shall be permitted to Vote in such Choice of Assignees, whose Debt shall not amount to *Ten Pounds*.

Creditors Petitioning for a Commission of Bankruptcy to prosecute the same at their own Cost until Assignees shall be chosen.

Public Notice to be given the Creditors of any Bankrupt of the Time & Place of Meeting for the Choice of Assignees &c.

And it shall be lawful for the Commissioners immediately to appoint Assignees, which Assignees shall be removed at the Meeting of the Creditors for Choice of Assignees, if the major Part in Value of them then present, and of such Persons authorized as aforesaid, shall think fit; and such Assignees as shall be removed, shall deliver up the said Bankrupt's Effects and Estate unto the Assignees chosen by the Creditors; and if such first Assignees shall neglect by the Space of ten Days (after Notice in Writing) to make such Assignment and Delivery, every such first Assignee shall forfeit *Two Hundred Pounds*, to be distributed amongst the Creditors, and to be recovered by such Person as the Commissioners shall appoint to sue for the same.

Assignees appointed by Commissioners may be removed at the Meeting of Creditors &c.

Forfeiture for Neglect of Assignees.

And it shall be lawful for the Commander in Chief, with the Advice of his Majesty's Council, upon Petition of the Creditors, to make such Order for the Choice of new Assignees, as he with such Advice shall think just; and in Case a new Assignment shall be ordered, then such Effects of such Bankrupt shall be thereby effectually vested in such new Assignees, and it shall be lawful for them to sue for the same in their Names, and to give Acquittance for Debts, as the Assignees in the former Assignment might have done; and the Commissioners shall cause publick Notice to be given in the *Boston* News-Papers that shall immediately follow the Removal of such Assignees, and the Appointment of others: And before the Creditors shall proceed to the Choice of Assignees, the major Part in Value of the Creditors present, shall if they think fit, direct how, and with whom the Monies to be received out of the Bankrupt's Estate shall remain until the same be divided, to which Rule such Assignees shall conform, as often as *Fifty Pounds* shall be got in.

Commander in Chief with Advice of the Council, to make Order for the Choice of new Assignees &c.

And the Persons chosen Assignees, shall after the Expiration of four Months, and within twelve Months from the Time of issuing such Commission, cause twenty-one Days Notice to be given in the publick News Papers, of the Time and Place the Commissioners and Assignees intend to meet and make a Dividend, at which Time the Creditors who have not before proved their

Assignees to give Notice in the public News-Papers of the Time and Place of Commissioners & Assignees meeting to make Dividend &c.

Debts,



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Assignees with the Consent of the major Part of the Creditors to submit any Difference to Arbitration.

Times for Commissioners Meeting within the Time limited for any Bankrupt to surrender himself.

Bankrupts to deliver the Assignees on Oath Books of Account &c.

Any Bankrupt having surrendered himself to have Liberty to inspect his Books &c.

Bankrupts to be free from Arrests in coming to surrender &c.

Debts, shall be at Liberty to prove the same; and upon every such Meeting, the Assignees shall produce Accounts of their Receipts and Payments, and of what still shall remain outstanding, and shall (if the Creditors present require the same) be examined upon Oath, or solemn Affirmation touching the Truth of such Accounts; and the Assignees shall be allowed all just Allowances, and the Commissioners shall order such Part of the neat Produce of the said Bankrupt's Estate in the Hands of said Assignees, as they shall think fit, to be divided amongst the Creditors, and shall make such Order for a Dividend in Writing, and shall cause one Part of such Order to be filed amongst the Proceedings under the Commission, and shall deliver unto each of the Assignees a Duplicate of such Order; which Order shall contain an Account of the Time and Place of making such Order, and the Sum total of the Debts proved, and the Sum total of the Money remaining in the Hands of the Assignees, and how much in the Pound is then ordered to be paid; and the Assignees in Pursuance of such Order, shall forthwith make such Dividend, and take Receipts in a Book from each Creditor. And it shall be lawful for the Assignees with the Consent of the major Part in Value of the Creditors present at any Meeting, pursuant to Notice in the public News Papers, to submit any Difference between such Assignees and any Person whatsoever, by Reason of any Matter relating to such Bankrupt, to the Determination of Arbitrators, or otherwise to compound the Matter in Difference, as the Assignees with such Consent can agree; and the Assignees are empowered, with Consent of Creditors, to make Composition with any Debtors to such Bankrupts, where the same shall appear necessary.

And the Commissioners shall appoint within the Time limited for the Bankrupt to surrender and conform as aforesaid, not less than three Meetings, the last of which shall be on the Day limited for such Bankrupt's Appearance; and three Weeks Notice shall be given in the public News Papers of the Time and Place of such Meetings: And it shall be lawful for them to enlarge the Time for such Person's surrendering himself, and discovering his Effects, not exceeding fifty Days from the End of the Time limited as aforesaid, so as such Order for enlarging the Time be made six Days before the Time on which such Person was to surrender himself.

And every such Bankrupt, after Assignees shall be appointed, shall deliver upon Oath or Affirmation, before a Justice of the Peace, unto such Assignees all his Books of Accounts and Writings, not seized by the Messenger of the Commission, or not before delivered up to the Commissioners, and then in his Power, and discover such as are in the Power of any other Person that any Ways concern his Estate; and every such Bankrupt, not in Prison, shall, after such Surrender be at Liberty, and shall attend such Assignees upon Notice in Writing, in order to assist in making out the Accounts of the Estate.

And every Bankrupt having surrendered, shall at all seasonable Times, before the Expiration of the said first limited Time aforesaid, or such further Time as shall be allowed to finish his Examination, be at Liberty to inspect his Books and Writings in the Presence of some Person to be appointed by the Assignees, and to bring with him for his Assistance, such Persons as he shall think fit, not exceeding two at one Time, and to make Extracts and Copies to enable him to make a full Discovery of his Effects; and the said Bankrupt shall be free from Arrests in coming to surrender, and from actual Surrender, for such Time as shall be allowed for finishing his Examination; provided such Bankrupt was not in Custody at the Time of Surrender; and in Case such Bankrupt shall be arrested for Debt, or on any Escape Warrant, coming to surrender, or after his Surrender, within the Time before-mentioned; then on producing such Summons or Notice under the Hands of the Commissioners or Assignees, and giving the Officer a Copy thereof, he shall be discharged; and in Case any Officer shall detain such Bankrupt, such Officer shall forfeit



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to such Bankrupt for his own Use *five Pounds* for every Day he shall detain him: And in Case any Bankrupt be in Custody at the Time of issuing the Commission, and is willing to submit to be examined, and can be brought before the Commissioners and Creditors, the Expence thereof to be paid out of the Bankrupt's Estate; but in Case such Bankrupt is in Execution, or cannot be brought before the Commissioners, then the Commissioners shall attend the Bankrupt in Custody, and take his Discovery; and the Assignees shall appoint Persons to attend such Bankrupt in Prison, and produce his Books and Writings, in order to prepare his Discovery; a Copy whereof the Assignees shall apply for, and the Bankrupt shall deliver to their Order ten Days before such last Examination. And all Bankrupts who shall surrender and conform, as by this Act is directed, shall be allowed *five per Cent.* out of the neat Produce of the Estate that shall be received, in Case the neat Produce of the Estate, after such Allowance made, shall be sufficient to pay *ten Shillings* in the Pound, and so as the said *Five per Cent.* shall not amount to above *Two Hundred Pounds*; and in Case the neat Produce of the Estate shall be sufficient to pay *twelve Shillings and six Pence* in the Pound, then all the Persons so conforming shall be allowed *seven Pounds ten Shillings* per Cent. so as such Allowance shall not amount to above *Two Hundred and fifty Pounds*; and in Case the neat Produce shall over and above the Allowance be sufficient to pay *fifteen Shillings* in the Pound, then Persons so conforming shall be allowed *Ten per Cent.* so as such *Ten per Cent.* shall not amount to above *Three Hundred Pounds*; and every such Bankrupt shall be discharged from all Debts owing at the Time he did become Bankrupt.

Any Bankrupt that shall be in Custody when Commission is issued &c.

Expence of Examination how to be paid. Bankrupts in Execution to be attended in Prison.

Allowance to Bankrupts who shall surrender and conform to this Act.

Bankrupts to be discharged from all Debts owing &c.

And in Case such Bankrupt shall afterwards be impleaded for any Debt due before he became Bankrupt, such Bankrupt shall be discharged upon common Bail, and may plead in general that the Cause of Action did accrue before such Time as he became Bankrupt; and the Certificate of such Bankrupt's conforming, and the Allowance thereof, shall be sufficient Evidence of the Trading, Bankruptcy, Commission and other Proceedings precedent to the obtaining such Certificate; unless the Plaintiff can prove the said Certificate was obtained unfairly, or make appear any Concealment by such Bankrupt to the Value of *Ten Pounds*.

Bankrupts impleaded &c. to be discharged on common Bail.

Bankrupt may plead in General &c.

And if the neat Proceeds of such Bankrupt's Estate shall not amount to *ten Shillings* in the Pound, such Bankrupt shall not be allowed the *Five per Cent.* but shall be allowed so much as the Assignees and Commissioners shall think fit, not exceeding *Three per Cent.*

Allowance to Bankrupts where their Estate will not pay 10s. in the Pound.

And in Case any Commission of Bankruptcy shall issue against any Person who shall have been discharged by Virtue of this Act, or shall have compounded with his Creditors, or delivered to them his Effects, and been released by them, or been discharged by any Act for the Relief of Insolvent Debtors, then the Body only of such Person conforming, shall be free from Arrest and Imprisonment; but the future Estate of such Person shall remain liable to his Creditors, (the Tools of Trade, necessary Household Goods, and necessary Wearing Apparel of such Bankrupt, and his Wife and Children excepted) unless the Estate of such Person shall produce clear *fifteen Shillings* in the Pound.

Bankrupts Bodies to be free from Arrest &c.

Future Estate liable to Creditors. Exception.

And be it further enacted, That no Discovery shall intitle such Bankrupt to the Benefits allowed by this Act, unless the Commissioners or the major Part of them, shall under their Hands and Seals certify to the Commander in Chief, that such Bankrupt hath made a full Discovery of his Estate, and in all Things conformed himself according to the Directions of this Act, and that there doth not appear to them any Reason to doubt of the Truth of such Discovery; and unless the greater Part in Number and in Value of the Creditors, who shall be Creditors for not less than *Ten Pounds* respectively, or some

Bankrupt not to be allow'd the Benefit of this Act, unless.

Certificate to be signed by the greatest Part of Creditors &c.



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Commissioners not to certify till they have Proof by Affidavit &c.

Bankrupt to make Oath &c. Certificate was obtained without Fraud.

Security given any Creditor to sign, the Certificate to be void.

Nothing in this Act shall give Advantage to Bankrupts, &c.

Any Bankrupt being imprisoned after obtaining a Certificate to be discharged &c.

On Certificate of Commissioners that Commission is issued &c. Justices of the Superiour Court &c. to grant Warrant

Any Bankrupt apprehended on submitting &c. to have the Benefit of this Act.

Persons making Discovery to be allowed.

Persons taking Bills &c. may Petition for a Commission of Bankruptcy.

No Commission of Bankruptcy to be awarded on a single Debt less than 50 l.

Persons Petitioning to make Oath and give Bond.

other Person by them duly authorized, shall sign such Certificate; and the Commissioners shall not certify till they shall have Proof by Affidavit or Affirmation in Writing of such Creditors, or of the Persons by them authorized, signing the Certificate, and of the Power by which any Person shall be authorized to sign for any Creditor, (which Affidavit or Affirmation, together with such Authority to sign, shall be laid before two of the Justices of the Superiour Court with the said Certificate); and unless such Bankrupt make Oath, or solemn Affirmation in Writing, that such Certificate was obtained without Fraud, and unless such Certificate shall after such Oath or Affirmation be allowed by two of the said Justices, and any of the Creditors of such Bankrupts may be heard, if they think fit, against the making such Certificate, and against the Confirmation thereof: And every Security to be given to the Use of any Creditor as a Consideration to persuade him to sign, such Certificate shall be void; and the Party sued on such Contract may plead the general Issue, and under it give this special Matter in Evidence: And Nothing in this Act shall give any Advantage to any Bankrupt who shall have lost in one Day the Value of *forty Shillings*, or in the whole the Value of *Ten Pounds* within twelve Months next preceeding his becoming Bankrupt, at Cards, Dice or other Game, or hath born a Share in the Stakes, or Betting.

And if any Bankrupt who shall obtain his Certificate, shall be taken in Execution and detained in Prison on Account of any Debts contracted before he became a Bankrupt, by Reason that Judgment was obtained before such Certificate was allowed, it shall be lawful for any one of the Judges of the Court wherein Judgment hath been so obtained, on such Bankrupt producing his Certificate allowed, to order any Sheriff or Goaler, who shall have such Bankrupt in his Custody, to discharge such Bankrupt without Fee. And upon Certificate under the Hands and Seals of the Commissioners, that such Commission is issued, and such Person proved before them to become Bankrupt, it shall be lawful for any of his Majesty's Justices of the Superiour Court, or of the Courts of Common Pleas, and they are hereby required upon Application made to grant their Warrants for apprehending such Person, and him to commit to the common Goal of the County where he shall be apprehended, and there to remain until he be removed by the Order of the Commissioners: And the Goaler to whose Custody such Person shall be committed, is required to give Notice to one of the Commissioners of such Person being in his Custody: And if any Person so apprehended shall within the Time allowed, submit to be examined, and conform as if he had surrendered, such Person shall have the Benefit of this Act, as if he had voluntarily come in. And every Person who shall (after the Time allowed to such Bankrupt) voluntarily make Discovery of any Part of such Bankrupt's Estate, not before come to the Knowledge of the Assignees, shall be allowed *Five* per Cent. and such further Reward as the Assignees, and the major Part of the Creditors in Value, present at any Meeting of the Creditors, shall think fit.

And it shall be lawful for Persons taking Bills, Notes or other Security for Money payable at a future Day, to Petition for a Commission, or join in Petitioning.

And no Commission of Bankruptcy shall be awarded, unless the single Debt of the Creditor, or of more Persons being Partners petitioning for the same, amount to *Fifty Pounds*, or unless the Debt of two Creditors Petitioning amount to *Seventy five Pounds*, or unless the Debt of more Creditors Petitioning, amount to an *Hundred Pounds*, and the Creditors Petitioning shall, before the same be granted, make Affidavit or solemn Affirmation, before a Justice of the Peace of the Truth of their Debts, and give Bond to the Secretary of the Province in the Penalty of a *Hundred Pounds*, to be Conditioned for proving their Debts, as well before the Commissioners, as

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upon a Trial at Law, in Case the due issuing forth of the same shall be contested, and also for proving the Party a Bankrupt, and to proceed on such Commission as herein is mentioned; and if such Debts shall not be really due, or if after such Commission taken out it cannot be proved that the Party was a Bankrupt, then the Secretary shall, upon Request of the Party grieved, assign such Bond to the Party, who may sue for the same in his own Name. And if any Bankrupt shall, after issuing of any Commission against him, pay the Person who sued out the same, or deliver to such Person Goods, or Security for his Debt, whereby such Person suing out such Commission, shall privately have more in the Pound than the other Creditors, such Payment, Delivery of the Goods, or giving Security, shall be deemed an Act of Bankruptcy, whereby such Commission shall be superseded: And it shall be lawful for the Commander in Chief, with Advice as aforesaid, to award to any Creditors petitioned another Commission; and such Person receiving such Goods or other Satisfaction, shall forfeit as well his whole Debt, as the whole he shall have received, and shall pay back and deliver up the same, or the full thereof, to be divided amongst the other Creditors. And where it shall appear that there hath been mutual Credit given, or mutual Debts between the Bankrupt or any other Person, the Commissioners or Assignees shall state the Account, and one Debt may set against another, and the only Balance of such Account shall be claimed or paid.

Secretary in certain Cases to assign Bond.

Any Bankrupt giving Security to such Person as shall sue out a Commission for Payment of more in the Pound than the other Creditors, new Commission to issue.

And if any Person shall before the Commissioners, or by Affidavit or Affirmation exhibited to them, swear or affirm, that any Sum of Money is due to him from any Bankrupt, which is not really due, knowing the same to be not due, and being convicted by Indictment or Information, such Person shall suffer as in Case of wilful Perjury, and shall be liable to pay double the Sum so sworn or affirmed to be due.

Penalty for any Bankrupt swearing or affirming that any Money is due which is not.

And after such Bankrupt shall have obtained his Certificate, and the same shall be confirmed, such Bankrupt shall be obliged upon Notice in Writing, to attend the Assignees in order to settle any Account of such Bankrupt's Estate, or to attend any Court of Record, to be examined touching the same, or for such other Business, which such Assignees shall judge necessary for getting in the Bankrupt's Estate; for which Attendance the Bankrupt shall be allowed *two Shillings* per Diem; and in Case such Bankrupt shall neglect to attend, or refuse to assist in such Discovery, without good Cause to be shewn to the Commissioners, to be by them allowed (such Assignees making Proof thereof, upon Oath or solemn Affirmation, before the Commissioners) the Commissioners are hereby required to issue a Warrant to such Persons as they shall think proper, for apprehending such Bankrupt, and him to commit to the County Goal, there to remain in close Custody until he shall conform to the Satisfaction of the Commissioners, and be by the Commissioners or by due Course of Law discharged; and such Goaler is required to keep such Person in close Custody within the Walls of the Prison, under the Penalties before-mentioned for suffering such Prisoners to escape: and within eighteen Months after the issuing of any such Commission, the Assignees shall make a second Dividend, in Case the Estate was not wholly divided upon the first, and shall cause Notice to be inserted in all the publick *Boston* News-Papers, for three Weeks successively, of the Time and Place the Commissioners intend to meet to make a second Dividend, and for the Creditors who shall not before have proved their Debts, to come and prove the same; and at such Meeting every Assignee shall produce upon Oath or Affirmation his Accounts, and what upon the Balance shall appear to be in his Hands, shall by like Orders of the Commissioners be forthwith divided, which second Dividend shall be final, unless any Suit shall be depending, or any Part of the Estate standing out, or unless some future Estate of the Bankrupt shall afterwards come to the Assignees, in which Case the Assignees shall,

Bankrupts to attend Assignees, to settle Accounts &c.

Upon Neglect to be committed &c.

Time for making a second Dividend.

And Notice of the Meeting to be given in *Boston* News-Papers &c.

Assignees on Oath to produce Accounts

Second Dividend to be final, unless.



No Lessee of  
Lands &c. to  
be deemed  
Bankrupt.

Commander  
in Chief on  
Petition to  
order Com-  
missions &c. to  
be put on Re-  
cord &c.

Certificates  
recorded &c.  
may be given  
in Evidence,  
unless fraudu-  
lently obtain-  
ed.

Clerks of the  
Inferiour  
Courts to re-  
cord Com-  
missions &c.

Expences for  
eating and  
drinking not  
to be paid out  
of the Bank-  
rupt's Estate &c.

Commis-  
sioners Oath.

Commis-  
sioners to admi-  
nister Oath to  
each other.

Commissions  
of Bank-  
ruptcy not to  
abate by the  
Demise of his  
Majesty &c.

Action &c.  
bro't against  
any Commis-  
sioner &c.

Defendant  
may plead not  
guilty &c.

Plaintiff ad-  
mitted to Re-  
ply &c.

shall, as soon as may be, convert such future Estate into Money, and shall within two Months after, by the like Order of the Commissioners divide the same.

And no Lessee of Lands, Grazier or Drover, or Receiver of Taxes, shall be intitled as such to the Benefits given by this Act, or be deemed a Bankrupt: And upon the Petition of any Person, the Commander in Chief may order such Commissions, Depositions, Proceedings and Certificates, to be entred of Record; and in Case of the Death of the Witnesses proving such Bankruptcy, or in Case the said Commissions or other Things shall be lost, a Copy of the Records of such Commissions or Things, signed and attested as herein is mentioned, may be given in Evidence to prove such Commissions and Bankruptcy, or other Things; and all Certificates to be allowed and entred of Record, or a true Copy of every Certificate signed and attested as herein is mentioned, shall and may be given in Evidence in any Courts of Record, and without further Proof taken to be a Bar and Discharge against any Action for any Debt contracted before the issuing of such Commission, unless any Creditor of the Person that hath such Certificate shall prove that such Certificate was fraudulently obtained; and the several Clerks of the Inferiour Courts of Common Pleas where said Bankrupt last dwelt, shall in their several Offices enter of Record such Commissions and other Things, and have the Custody of the Entries thereof; and all Persons shall be at Liberty to search, and have Copies of them. And there shall not be paid out of the Estate of the Bankrupt, any Monies for Expences in Eating or Drinking of the Commissioners, or of any other Persons, at the Times of the Meetings of the Commissioners or Creditors; and no Schedule shall be annexed to any Deed of Assignment, of the Personal Estate of such Bankrupt; and if any Commissioner shall order such Expence to be made, or eat or drink at the Charge of the Creditors, or out of the Estate of such Bankrupt, or receive above *five Shillings*, each Commissioner for each Day on which they shall meet, every such Commissioner shall be disabled to act in any Commission of Bankrupts.

And the Commissioners shall not be capable of acting until they have respectively taken an Oath to the Effect following, viz.

**I** A. B. do Swear, that I will faithfully, impartially and honestly, according to the best of my Skill and Knowledge, execute the several Powers and Trusts reposed in me as a Commissioner, in a Commission of Bankruptcy against and that without Favour or Affection, Prejudice or Malice.

So help me GOD.

Which Oath any two of the Commissioners are impowered to administer to each other, and they are required to keep a Memorial thereof signed by them, amongst the Proceedings on each Commission.

And no Commission of Bankruptcy shall abate by the Demise of his Majesty, his Heirs or Successors, but shall continue in Force; and if it shall be necessary to renew any Commission by Reason of the Death of the Commissioners, or any other Cause, such Commission shall be renewed, and only the Fees usually paid, shall be paid for such renewed Commission.

And be it further enacted, That if any Action of Trespas, or other Suit shall happen hereafter to be brought against any Commissioner, or any other Person or Persons having Authority by Virtue or under the Commission, authorizing the said Commissioner for the doing or executing any Matter by Force of this Act, that the Defendant or Defendants, in any such Action or Suit, may plead not guilty, or otherwise justify that the Act or Thing whereof the Plaintiff or Plaintiffs complained, was done by the Authority of this Act, without expressing or Rehearsal of any other Matter of Circumstance contained in this Act, and without inforcing him or them to shew forth their Commission authorizing the said Act or Thing; whereunto the Plaintiff shall be admitted



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to reply that the Defendant did the Fact supposed in the Declaration of his own Wrong, without any such Cause alledged by the Defendant, whereupon the Issue in such Action shall be joined, to be tried by Verdict of twelve Men, and upon the Trial of that Issue, the whole Matter may be given by both Parties in Evidence, according to the very Truth of the same, and if the Verdict upon such Issue shall pass for the Defendant, the Defendant shall have Costs.

Trial to be by Verdict of 12 Men.

Costs.

*Provided always, and be it further enacted,* That if after any Commission of Bankruptcy hereafter sued forth, and dealt in by the Commissioners, the Bankrupt happen to die before the Commissioners shall distribute the Goods, Lands and Debts of the Bankrupts, or any of them, by Force of this Act, that then nevertheless, the said Commissioners shall and may in that Case proceed in Execution, in and upon the said Commission, for and concerning the Bankrupt's Goods, Lands, Tenements, Hereditaments and Debts, in such Sort as they might have done, if the Bankrupt were living.

Proviso in Case of any Bankrupt's Death &amp;c.

*And be it further enacted,* That the said Commissioners, or the major Part of them, shall have Power by Virtue of this Act, by Deed Indented and duly Registred within two Months after the making thereof, in the County where such Lands lie, to grant, bargain, sell and convey any Lands, Tenements or Hereditaments, whereof any Bankrupt is or shall be in any Ways seized, of any Estate, in Tail, in Possession, Reversion or Remainder, and whereof no Reversion or Remainder is, or shall be in the King's Majesty, his Heirs or Successors, to any Person or Persons for the Relief and Benefit of the Creditors of all such Bankrupts: And that all and every such Grants, Bargains, Sales and Conveyances, shall be good and available in the Law to such Person or Persons, and their Heirs, against the said Bankrupt, and against all and every the Issues of the Body of such Bankrupts, and against all and every Person or Persons, claiming any Estate, Right, Title or Interest, by, from or under the said Bankrupts, after such Time as such Person shall become Bankrupt, and against all and every other Person or Persons whatsoever whom the said Bankrupt by common Recovery, or other Ways or Means might cut off, or debar from any Remainder, Reversion, Rent, Profit, Title or Possibility, into or out of any the said Lands, Tenements, or Hereditaments.

Commissioners or the major Part of them have Power by Deed indented &amp;c. to grant and sell Lands &amp;c.

Grants &amp;c. to be good against Bankrupts and their Heirs &amp;c.

*And be it further enacted,* That if any Person that now is, or shall hereafter become a Bankrupt, have heretofore granted, conveyed or assured, or shall at any Time hereafter, grant, convey or assure any Lands, Tenements, Hereditaments, Goods, Chattels or other Estate, unto any Person or Persons, upon Condition, or Power of Redemption, at a Day to come, by Payment of Money, or otherwise, or have by Law a Right of Redemption therein, or where Bonds shall be given for Reconveyance of any Real Estate upon Payment of Money or other Thing at a certain Day, that it shall and may be lawful to and for the said Commissioners, or the greater Part of them, before the Time of the Performance of such Condition, or Agreement or Right of Redemption be expired, to assign and appoint under their Hands and Seals, such Person or Persons, as they shall think fit, to make Tender or Payment of Money, or other Performance, according to the Nature of such Condition, Agreement, or Right of Redemption, as fully as the Bankrupt might have done: And that the said Commissioners, or the greater Part of them, shall after such Tender, Payment or Performance, have Power to sell and dispose of such Lands, Tenements, Hereditaments, Goods and Chattels, and other Estates so granted, conveyed or assured upon Condition, to and for the Benefit of the Creditors, as fully as they may sell or dispose of any the Estate of the Bankrupt.

Bankrupts conveying Lands &amp;c. in Consideration of Redemption.

Commissioners may appoint Persons to make Tender &amp;c.

After Tender Commissioners Power to dispose of Lands &amp;c.

[ Q q q q ]

*Provided*



## Bankrupts and their Creditors.

Proviso.

*Provided further,* That no Purchaser, for good and valuable Consideration, shall be impeached by Virtue of this Act, unless the Commission to prove him or her a Bankrupt, be sued forth against such Bankrupt within five Years after he or she shall become a Bankrupt.

Discharge of any Bankrupt by this Act not to extend to his Partner.

*And be it further enacted,* That the Discharge of any Bankrupt, by Force of this Act, from the Debts by him owing at the Time that he did become a Bankrupt, shall not be construed to discharge any other Person who was Partner with the Bankrupt in Trade, or stood jointly bound, or had made any joint Contract together with such Bankrupt.

Persons giving Credit on Securities &c. payable at a future Day to have a Dividend &c.

And every Person who shall give Credit on Securities payable at future Days to Persons who are or shall become Bankrupts, upon good Consideration *bonâ fide*, for Money or other Thing not due before the Time of such Person's becoming Bankrupt, shall be admitted to prove their Securities or Agreements, as if they were payable presently, and shall have a Dividend in Proportion to the other Creditors, discounting *six per Cent.* from the actual Payment, to the Time such Money would have become due; and the Bankrupt shall be discharged from such Securities, as if such Money had been due before the Time of his becoming Bankrupt.

When Persons shall fraudulently Swear or Affirm and sign Consent for the discharge of any Bankrupt &c.

*And be it further enacted,* That when any Persons shall fraudulently swear or depose, or being of the People called *Quakers*, affirm before the major Part of the Commissioners named in any Commission of Bankruptcy, or by Affidavit or Affirmation exhibited to them, that a Sum of Money is due to him or her from any Bankrupt or Bankrupts, which shall in Fact not be really and truly so due or owing, and shall, in Respect of such fictitious and pretended Debt, sign his or her Consent to the Certificate for such Bankrupt's Discharge from his Debts; that in every such Case, unless such Bankrupt shall, before such Time as the major Part of the said Commissioners shall have signed such Certificate, by Writing by him to be signed and delivered to one or more of the said Commissioners, or to one or more of the Assignees of his Estate and Effects, under such Commission, disclose the said Fraud, and object to the Reality of such Debt, such Certificate shall be null and void, to all Intents and Purposes; and such Bankrupt shall not in that Case be intitled to be discharged from his Debts, or to have or receive any of the Benefits or Allowances given or allowed to Bankrupts, by this Act; any Thing herein contained to the contrary thereof in any wise notwithstanding.

Limitation of the Act.

This Act to be and continue in Force for five Years from the Publication of it, and no longer.

[ *The foregoing Act was Published September 1<sup>st</sup>. 1757.* ]

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